

**United States District Court
Southern District of Ohio
Western Division**

Steven B. Barger,

Plaintiff,

v.

First Data Corporation, et al.

Defendants.

Case No. 1:18mc00010

Judge Susan J. Dlott

Mag. Judge Stephanie K. Bowman

ORDER

This matter is currently before the Court based upon the filing of a motion to compel by Defendant (Doc. 1) to compel the deposition of a non-party witness Julie K. Kelly. Ms. Kelly filed a motion to quash (Doc. 4) as well as a motion for sanctions (Doc. 7). This matter was previously before the Court for a telephone status conference to discuss the above-mentioned motions. At that time Ms. Kelly agreed to appear for a deposition on August 31, 2018 and the Court requested further briefing on the motion for sanctions. Ms. Kelly then filed a motion for an order on her motion for sanctions (Doc. 8) as well as a motion for protective order (Doc. 10). Ms. Kelly did not appear for her deposition on August 31, 2018 which led the Court to schedule another telephone conference for September 18, 2018. Prior to that conference taking place, Ms. Kelly filed a motion to obtain electronic case filing rights (Doc. 18) and a motion for extension of time to file her reply brief in support of her motion for protective order (Doc. 19). The Court held the previously mentioned conference on September 18, 2018 wherein the Court informed the

parties that it would order Ms. Kelly to appear for a deposition. Based upon this ruling, Ms. Kelly's motion to quash (Doc. 4) is denied.

Ms. Kelly's motion for protective order (Doc. 10) is also denied and Ms. Kelly is ordered to bring with her to the deposition the documents in her possession that are requested in the subpoena for the August 31, 2018 deposition that was served on August 20, 2018. Although the Court cannot, and is not, providing legal advice, Ms. Kelly is directed to carefully review the request for documents, paying particular attention to paragraph one on page one of Attachment A to the subpoena.

At this time the Court will deny the motion to obtain electronic case filing rights, without prejudice. This is a miscellaneous case and under normal circumstances should not require numerous future filings as all pending motions have either been addressed by this order or are fully briefed. However, should circumstances change, Ms. Kelly may renew her motion.

Ms. Kelly's motion for an extension of time is granted. Ms. Kelly requested until September 17, 2018 to file her reply brief in support of her motion for a protective order and she in fact filed her reply on September 17, 2018. Thus, the reply is hereby deemed timely filed.

Thus, having considered the pending motions the Court orders as follows:

1. Defendants motion to compel (Doc. 1) is GRANTED. **Ms. Kelly must appear for a deposition on October 15, 2018** at 12:00pm to be held at the U.S. Potter Stewart Courthouse, Room 203, 100 East Fifth Street, Cincinnati, Ohio 45202. Ms. Kelly must bring any and all documents in her possession as requested in

the Subpoena previously issued for the August 31, 2018 deposition. The deposition will conclude at 5:00pm unless Defendants choose to conclude prior to 5:00pm. Unless otherwise agreed, Ms. Kelly shall be allowed two five minute breaks and one fifteen minute break during the five hour deposition. Defendants shall reimburse Ms. Kelly for reasonable child care expenses.

2. Ms. Kelly's motion to quash (Doc. 4), motion for an order on her motion for sanctions (Doc. 8), motion for protective order (Doc. 10) and motion to obtain electronic case filing rights (Doc. 18) are hereby DENIED. The Court will rule on the pending motion for sanctions in a subsequent order.
3. Ms. Kelly's motion for extension (Doc. 19) is GRANTED.

IT IS SO ORDERED.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge